

#### **City Council**

#### Special Meeting Agenda

Tuesday, February 27, 2018
City Hall, Council Chambers
749 Main Street
7:00 PM

- 1. CALL TO ORDER
- 2. DISCUSSION/DIRECTION CITYWIDE SOLID WASTE POLICIES AND OUTREACH
  - Staff Presentation
  - Public Comments (Please limit to three minutes each)
  - Council Questions & Comments
- 3. DISCUSSION/DIRECTION MARIJUANA REGULATIONS
  - Staff Presentation
  - Public Comments (Please limit to three minutes each)
  - Council Questions & Comments
- 4. DISCUSSION/DIRECTION CITY COUNCIL USE OF STUDY SESSIONS VERSUS REGULAR OR SPECIAL MEETINGS
  - Staff Presentation
  - Public Comments (Please limit to three minutes each)
  - Council Questions & Comments
- 5. CITY MANAGER'S REPORT & ADVANCED AGENDA
- 6. ADJOURN

**Citizen Information** 

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.



#### CITY COUNCIL COMMUNICATION AGENDA ITEM 2

SUBJECT: DISCUSSION/DIRECTION – CITYWIDE SOLID WASTE POLICIES AND

OUTREACH

DATE: FEBRUARY 27, 2018

PRESENTED BY: KURT KOWAR, PUBLIC WORKS DEPARTMENT

#### **SUMMARY:**

Staff is presenting recommendations for consideration related to various policies affecting solid waste practices within the City of Louisville. This discussion is focused upon efforts that would better support the City's Solid Waste Subprogram goal to "Enable residents to dispose of their solid waste in a convenient, environmentally sustainable, cost effective manner."

The framework for discussion on this topic is as follows:

- Recommendation A Begin adoption of Ordinances to utilize the Boulder County ReTRAC software and require all haulers in the City to report categories and volumes of waste annually.
- Recommendation B Update City Ordinances to include language that represents composting to reflect current City managed program practices.
- Recommendation C1 or C2 Begin outreach to HOA's to gather feedback and provide education around composting. Input gathered would provide for City Council guidance on any policy that would require residential composting citywide.
- Recommendation D1 or D2 Begin outreach to Multifamily and Businesses to gather feedback and provide education around recycling and composting. Input gathered would provide for City Council guidance on any policy that would require non-residential recycling and composting citywide.
- Recommendation O's Various smaller policy topics for consideration to move forward on with next steps or official designate as considered but desired.

Staff will present specific details and visual illustrations as provided in the attached presentation.

Previous City Council discussion on April 11, 2017 related to solid waste polices can be reviewed here.

#### FISCAL IMPACT:

Currently there is not a significant direct cost impact related to this discussion. Any direction to perform community outreach will require significant staff time and likely several hundred to a few thousand dollars in materials.

#### **RECOMMENDATION:**

Staff recommends City Council direct staff to begin implementation of the Boulder County ReTRAC program and hauler licensing to better understand all solid waste categories and quantities that leave the City (Recommendation A).

Staff recommends updating City Solid Waste Ordinances to reflect actual practices of its Solid Waste Program in regards to composting (Recommendation B).

SUBJECT: CITYWIDE SOLID WASTE POLICIES AND OUTREACH

PAGE 2 OF 2 DATE: **FEBRUARY 27, 2018** 

Staff will follow-up on Council direction regarding all other topics (Recommendation C, D, O) that require City Council policy direction as provided.

#### ATTACHMENT(S):

- 1. Presentation
- 2. Public Comments

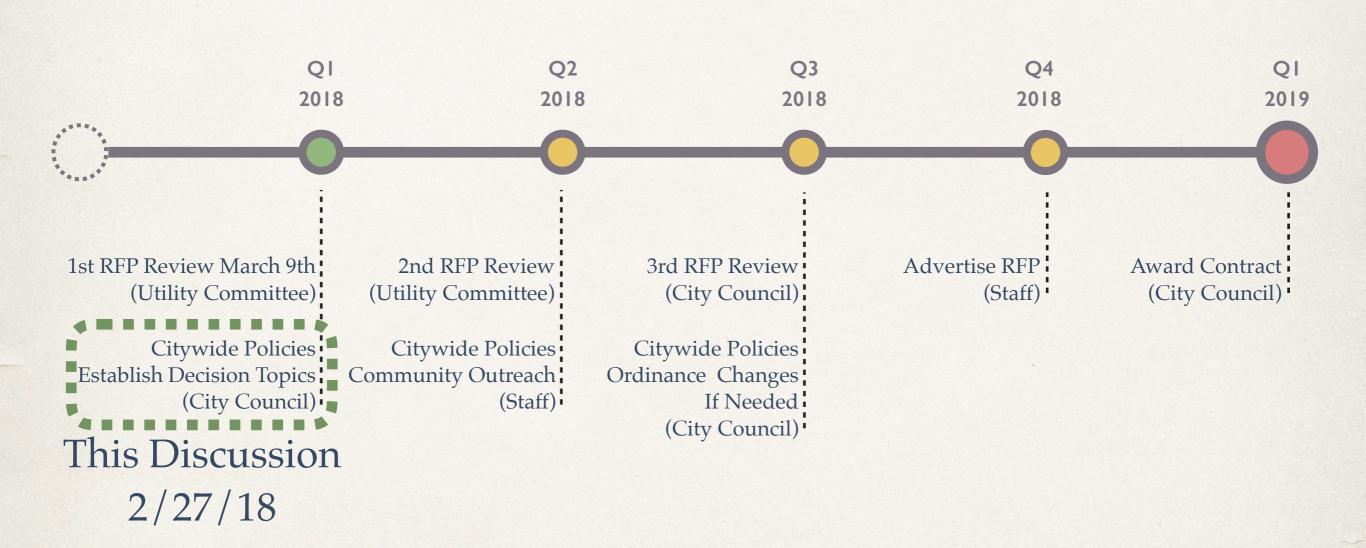
## Solid Waste Policies Next Steps

City of Louisville, Colorado

"Enable residents to dispose of their solid waste in a convenient, environmentally responsible, cost effective manner."

-2017/2018 Louisville Solid Waste Subprogram Objective

## 2018/2019 Tentative Trash, Recycle, Compost Timeline



## This Discussion

- \* Focused on the policies, not the RFP.
- Staff is planning to begin initial RFP Draft discussions on March 9th with the Utility Committee.
- \* Some policy items (as noted on the slides) may affect RFP language but doesn't affect the schedule with Utility Committee.
- \* Staff will focus on RFP language with the Utility Committee.

Policy Issues are the focus not RFP Language

## Diversion Policy Opportunities

A - D Policy Topics (Grey Doing, Yellow Could Do)

		Residential	HOA	Multifamily	Commercial
1	A Require Tracking	•			
	Require Trash				
	Require Recycle			D	
	Require Compost	B • •	C		

## A - Hauler Tracking

- Adopt Ordinance modifications to require haulers to report annually.
- City would utilize Boulder County ReTRAC software for the reporting. May have minor subscription fee.
- \* Allows City to understand bigger picture while utilizing a countywide software for standardization and minimization of Louisville administrative efforts.
- \* Completing this effort in 2018 sets up complete tracking starting in 2019.
- Hauler Tracking may assist with accurate information for any longer term C or D item policy discussions.

Recommendation A: Begin Implementation Now

## A - Hauler Tracking

#### Example Ordinance Language

#### **SECTION 6: LICENSEE REQUIREMENTS**

#### A. Annual Reporting

All haulers will submit annual reports for Discarded Materials collected from the incorporated areas of Boulder County or any municipality which consents to the application of this ordinance within its jurisdiction, without a current Annual Hauler License for such activity.

Annual reports will include the following information:

Weight (in tons) of the following:

- Discarded Materials
- o Landfill Materials
- Total Landfilled C&D Materials
- o Total Recycled C&D Materials
- Recyclable Materials (by commodity or aggregated into commingled containers; mixed paper; single stream (commingled containers combined with mixed paper))
- o Compostables
- o E-scrap
- o Landscaping Materials
- o Architectural Paint
- o Reuse Materials
- o Other information deemed necessary as waste diversion reports are further developed

Name and final destination facility(s) of landfill, recycling, composting, C&D, e-scrap, architectural paint, reuse materials, and/or landscape materials

Reports shall be submitted to the Boulder County Resource Conservation Division by January 31, each year, via Boulder County's ReTRAC software or other software designated by Boulder County.

## B - City Contract Composting

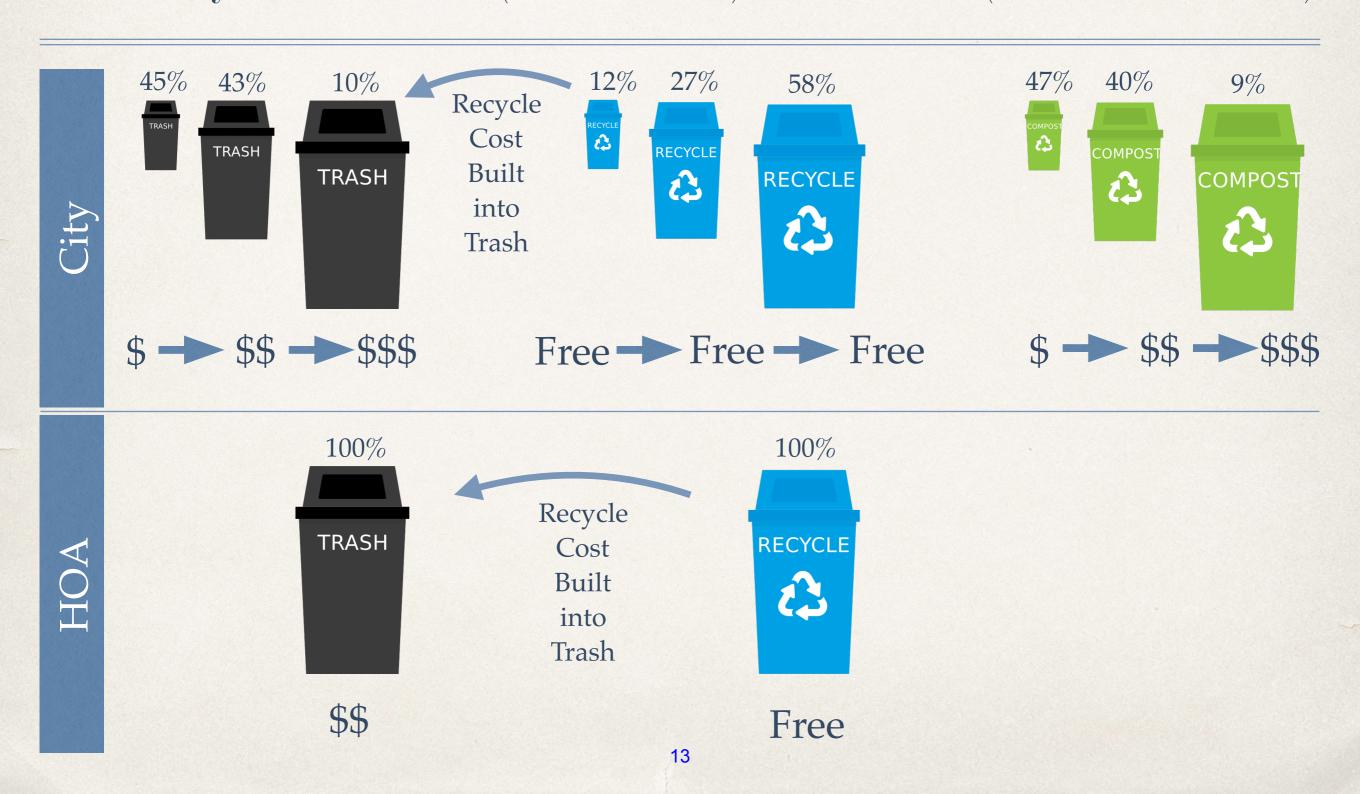
- Ordinance doesn't require or mention composting as it does recycling for our City program but we do it.
- \* Housekeeping Add composting language to Ordinance for City managed program.

Recommendation B: Implement Ordinance update for City program to reflect current practices.

#### Price, Compost, and Equity

- HOA's are currently only required to recycle.
- We do not have statistics on how many HOA programs offer compost.
- Due to the City's Pay as You Throw cost structure a 96 gallon City Trash Bin will appear more expensive than an HOA 96 gallon Trash Bin.
- Some HOA's may not have yards to maintain and therefore may have less compost needs than single family homes with yards.
- Requiring Composting does not require an HOA to be in within the City's contract. It just requires them to require of their customers in their contract.
- City residential customers may feel there is inequity when they are required to compost but HOA's may not.

Price - Pay as You Throw (Incentivized) vs. Flat Fees (Non Incentivized)



Curbside Compost Does Make a Difference and Indoor vs Outdoor

HOA

67-75

Est. % of HOA

Landfilled

City

56

% of City

Landfilled

25

% of City Program Waste is **Recycled** 

19

% of City Program Waste is **Composted** 

25-33% vs 44% Diversion

56%
of City Program
Compost is Indoor

waste

Amount of Potential HOA Compost Diversion

11%

Indoor Waste

8%
Outdoor Waste

Potential Next Steps

#### Recommendation C1:

Proceed with Staff led HOA Outreach to discuss requiring HOA's to Compost if Waste Diversion and Citywide Equity are significant enough concerns. Requiring residential composting for all doesn't necessarily require all to be in the City's Program. HOA's could still manage their own programs.

#### OR

#### Recommendation C2:

Do not proceed with Staff led HOA Outreach. Maintain status quo if **Waste Diversion** and Citywide **Equity** as currently exists is an appropriate community balance.

## D - Multifamily and Commercial

Aggregated Rough Data Obtained from some Haulers (Use Lightly)

Non Res

68

% of waste Landfilled

29

% of waste Recycled

% of waste Composted City

56

% of City Landfilled

25

% of City Recycle

19

% of City Composted

32% vs 44% Diversion

Boulder Waste Diversion Stats for **Businesses** after Universal Waste Ordinance

> 25% 2009

to 37% 2015

Boulder Waste Diversion Stats for Multifamily after Universal Waste Ordinance

> 17% 2009

21%

## D - Multifamily and Commercial

Not Recommended for RFP

- Staff does not believe Multifamily and Commercial should be tied to the City's Residential Program.
- \* Businesses and Multifamily would likely get more competitive pricing on their own due the variety of individual needs and/or joint tenant arrangements.

## D - Multifamily and Commercial

Potential Next Steps

#### Recommendation D1:

Proceed with Staff led Multifamily and Commercial Outreach to discuss requiring Recycling and Compost if Waste Diversion and Citywide Equity are significant enough concerns.

#### OR

#### Recommendation D2:

Do not proceed with Staff led Multifamily and Commercial Outreach. Maintain status quo if **Waste Diversion** and Citywide **Equity** as currently exists is an appropriate community balance.

### Other - Miscellaneous

- O1 Reusable Bag Handout Day vs. Ban Plastic Bags or Bag
   Fee
- \* O2 Ban Cardboard in Trash (Recycle Only)
- O3 Special Events (RFP Related)
  - O3.1 Require Recycle, Composting at Events by Ordinance
  - \* O3.2 Charge Citywide vs. Single Residential for City Event Costs (Similar to Hazardous Waste, RFP Line Item)

## Other - Large Item Pickup

RFP Related - Was Requested as Followup by Council

1,145

Total Large Item Pickups

5,290

City Accounts

20%

Repeat Users

Estimated Value of Bulk Item Pickup Program

\$34.25 Avg. \$/Pickup

\$39,216
Total Pickup Overhead

Estimated Overhead Impact to Average Bill

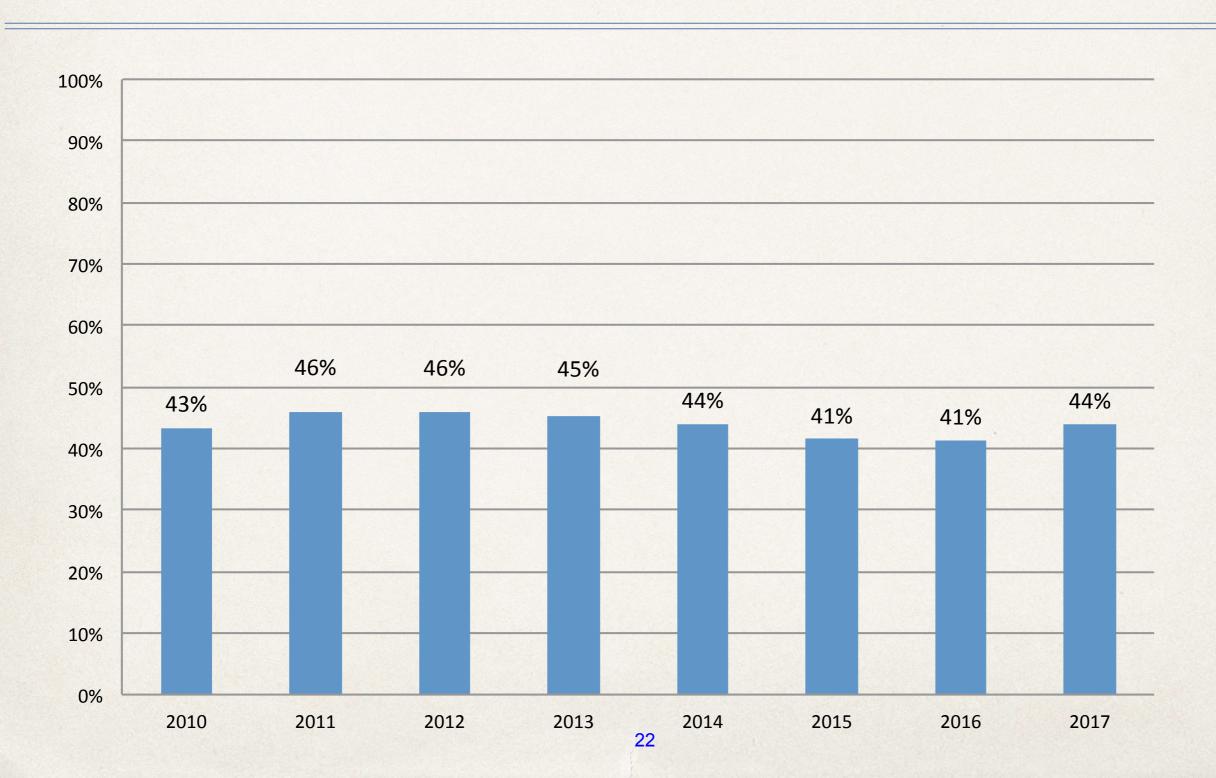
\$0.62 per month

\$7.41 per year

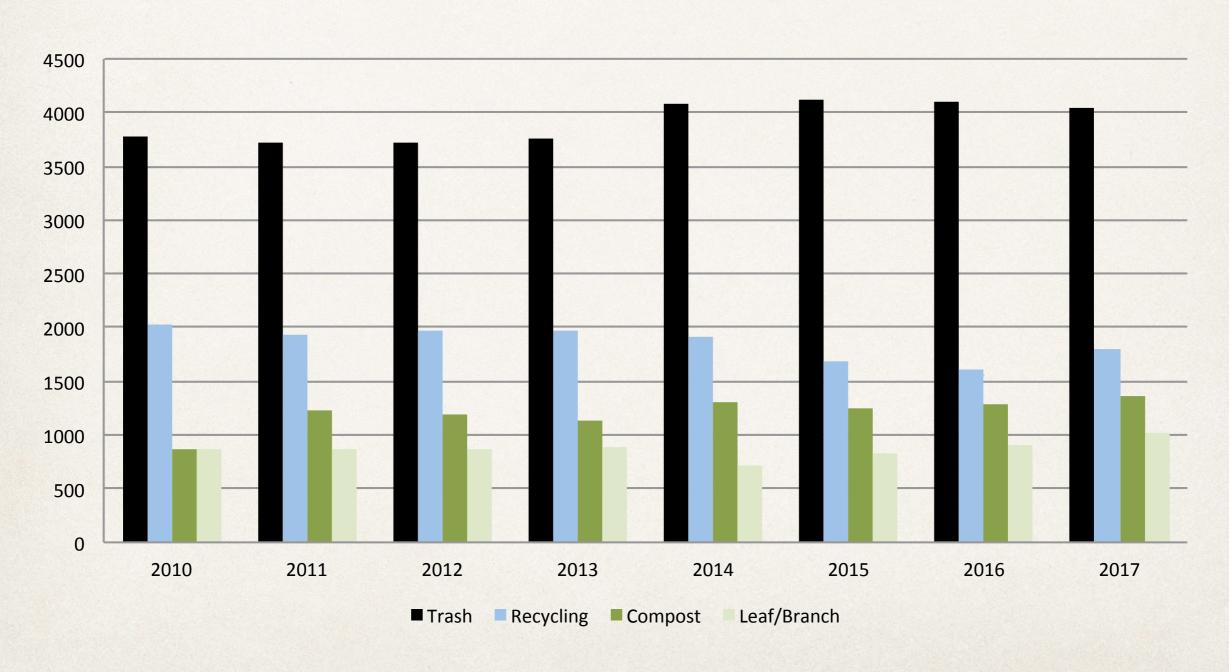
# Residential Single Hauler Statistics



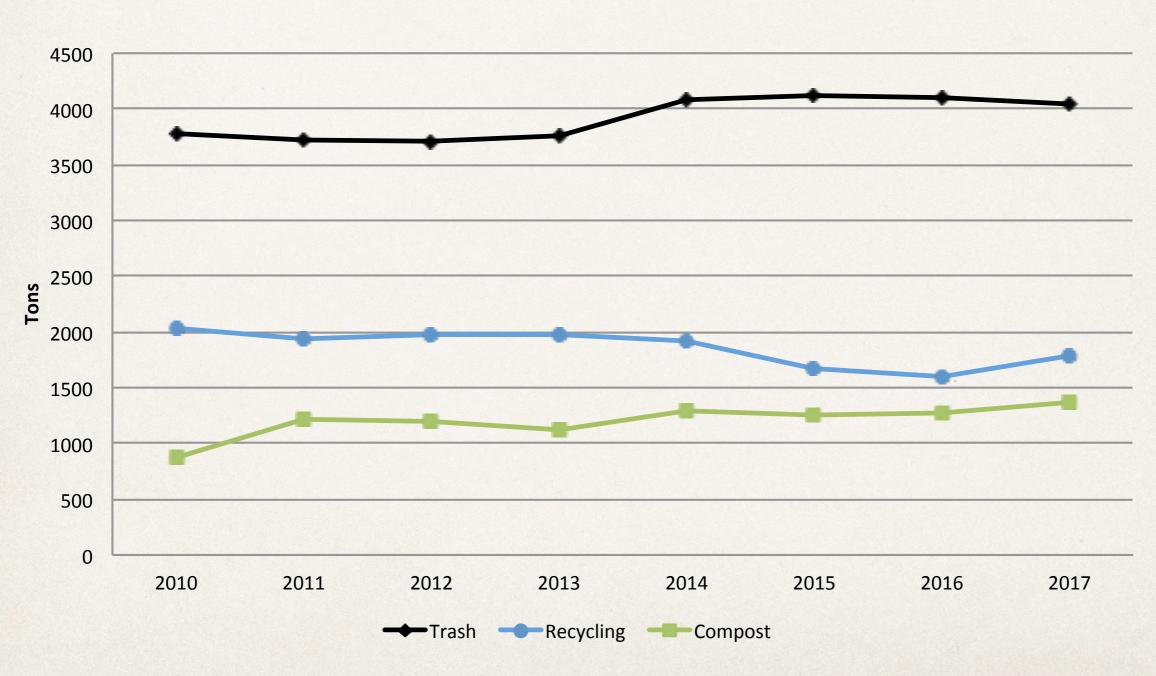
## Residential Trash, Recycle, Compost 2010 - 2017 Diversion Rate



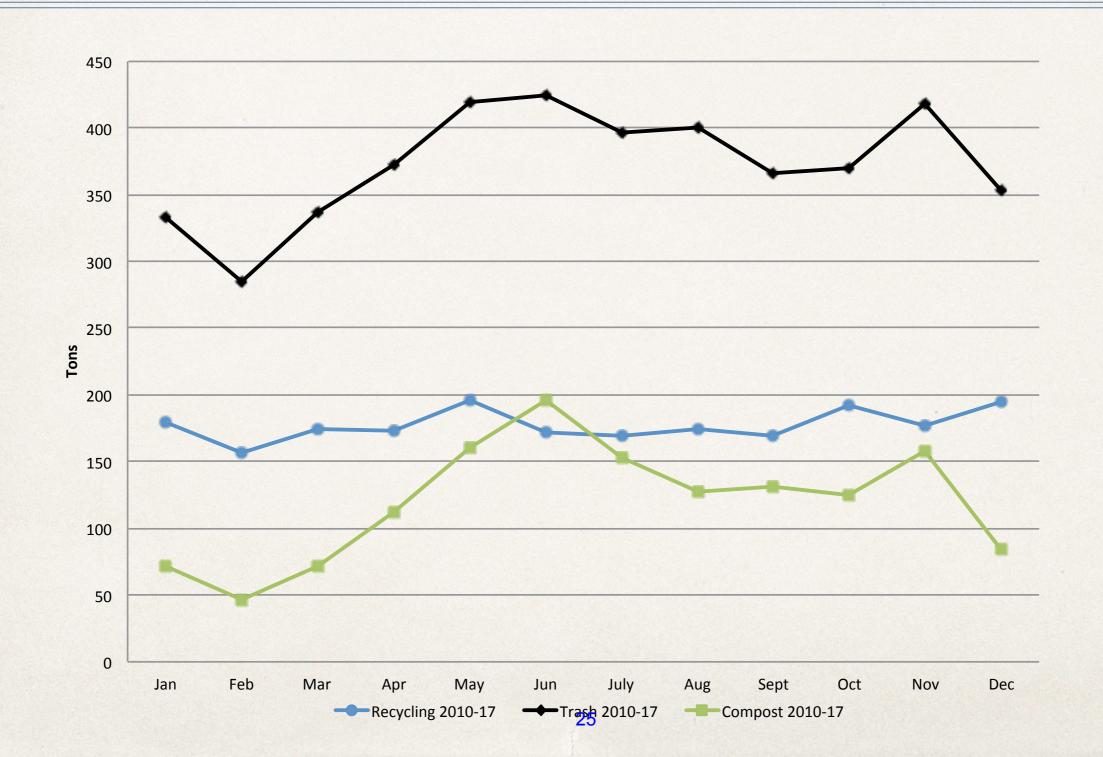
## Residential Trash, Recycle, Compost, Leaf/Branch 2010 - 2017 Total Tons by Year



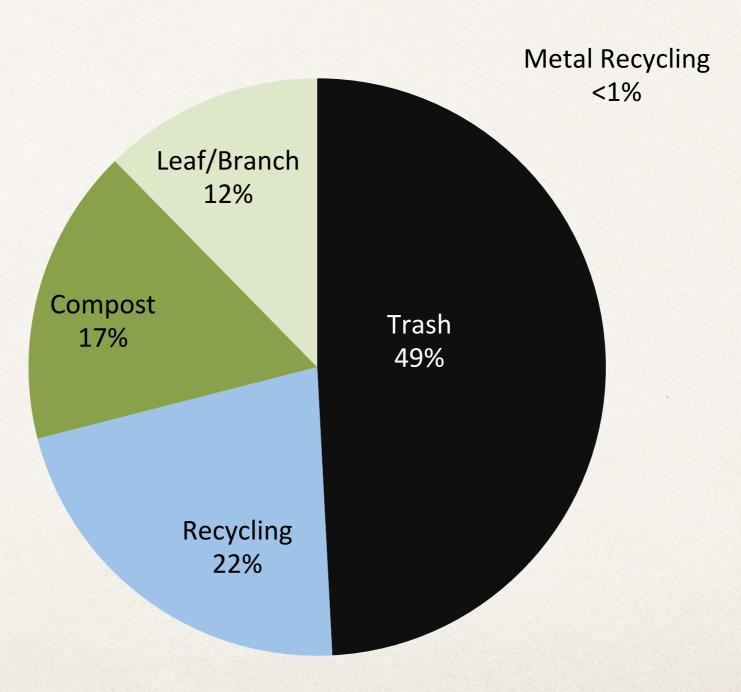
## Residential Trash, Recycle, Compost, Leaf/Branch 2010 - 2017 Waste Tons by Year



## City Residential Program Trash, Recycle, Compost 2010 - 2017 Avg. Tons by Month

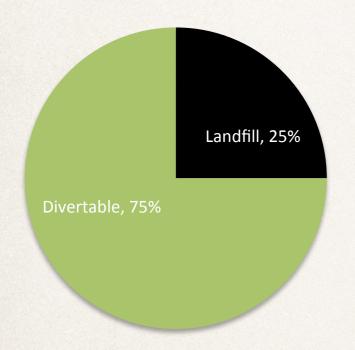


## 2017 Residential Waste Percent by Weight

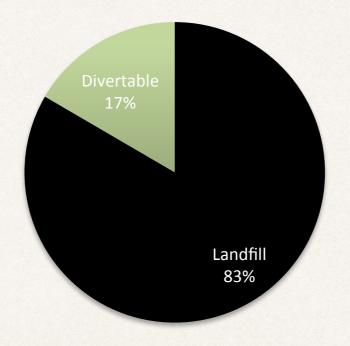


## 2016 Waste Composition Study

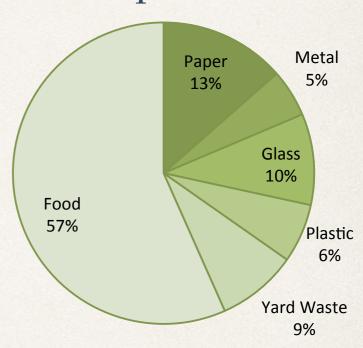




#### **COL Composition**



## Divertable Composition



79% Compostable 21% Recyclable

From: Kristen Anthony <kkbmant@comcast.net> Sent: Thursday, February 15, 2018 10:39 PM

To: City Council

Subject: City of Louisville waste collection services

Hello,

I am writing to ask that you please do not approve a resolution requiring all city of Louisville residences - including HOAs - to become part of the city's contract and almost double our waste collection rates. Our services are working well and have been for more than 25 years. As longtime Louisville residents, we respectfully ask for no interference in our current efficient system that keeps our community clean and sustainable. Our large bins are cost effective and encourage recycling. The vast majority of residents within our HOA do not want a change.

As our City Council, Mayor, and Ward 3 representatives, will you please listen to us residents?

Thank you,

Kevin and Kristen Anthony

From: Jennifer Henderson <jeshenders@comcast.net>

Sent: Tuesday, February 13, 2018 4:19 PM

To: City Council Cc: Jim Henderson

Subject: Coal Creek HOA and Curbside Composting

Dear City Council Members,

As a resident of the Coal Creek Homeowners Association I would like to express my enthusiasm and willingness to have curbside composting in our neighborhood, and our utilities moved to the City of Louisville.

I am willing to pay for an increase in the monthly fee for curbside composting, and would like the opportunity to reduce our trash pickup to a smaller container. This is critical to improving our environmental footprint, and the opportunity to add materials to the city compost process expands what can be composted in our backyard composter which is seasonal. I sincerely hope that we can join the existing collection in the City.

Thank you.

Jennifer Henderson 822 St. Andrews Ln. Louisville, CO 80027

From: Louise Ann Geil <louise611@me.com>
Sent: Monday, February 19, 2018 4:46 PM

To: City Council

Subject: Composting in Coal Creek Ranch

The Coal Creek Ranch Master Association recently sent all the homeowners a very brief (2 questions with no place for comments) survey regarding composting. Essentially it asked if we wanted our fees to increase. Well, no one wants fees to increase unless they see a benefit, and no benefit was mentioned or alluded to. Not surprisingly, the majority didn't want their fees to increase so that is the formal stance of the association. I was not happy with the survey because it seemed incredibly biased, and having composted for years in Boulder I know how easy and effective composting is. So I simply want to go on record as a supporter of composting city-wide, even as a resident of the Coal Creek Ranch HOA.

Louise Geil 208 Fairfield Lane Louisville

From: Beverly Johnson <br/> bevbraugjohnson@hotmail.com>

Sent: Monday, February 19, 2018 2:08 PM

To: City Council

Subject: Continued support for HOA trash collection services management

Dear City Council Members, the Mayor, and Ward 3 representative:

It is our family's sincerest request that we will be able to continue the HOA trash collection services that are managed by the Coal Creek Ranch HOA.

We have lived in Louisville for over 35 years, in our current HOA-managed location for 23 years.

The recent survey certainly supports the fact that 91.2% of folks living in our HOA-managed areas are in favor of continuing our current waste collection services, and our family is asking that you honor the results of the survey and keep our current trash collection contract in place.

Respectfully, Beverly Johnson 826 Spyglass Circle

Sent from my iPad

From: Diane Shepard <dmshepard@comcast.net>
Sent: Tuesday, February 13, 2018 8:00 PM

To: City Council

Subject: Curbside composting in HOA communities

I live in a HOA community that does not have curbside composting. Our HOA has kept our trash removal rates very manageable over the years, but I would like curbside composting. I understand the city is looking at making it mandatory that HOA's use the same service as the rest of the city and that to add curbside composting would increase our rates by \$20.00 a month. This seems like a huge increase and I'd like to understand why.

If I understand the process regular trash would be picked up every week, recycles would be picked up every other week (which is the service we have now), then on the alternate weeks when recycles aren't picked up then composting would be picked up. What would that truck cost so much more? I encourage the city to continue to negotiate a better contract with waste removal services.

Thank you for your work on this.

--

Diane Shepard 817 St. Andrews Lane Louisville, CO 80027

From: Beverly Johnson <br/> bevbraugjohnson@hotmail.com>

Sent: Monday, February 19, 2018 2:21 PM

To: City Council

**Subject:** Fwd: Continued support for HOA trash collection services management. Question regarding

rates

In addition to my forwarded email, I would like to understand how our HOA can contract a monthly rate of \$14.30 for two 96 gallon containers and a small composting container, while the City of Louisville is charging \$34.57 for the same service. I would appreciate you responding to this email request.

Sincerely, Bev Johnson

Sent from my iPad

Begin forwarded message:

**From:** Beverly Johnson < bevbraugjohnson@hotmail.com >

Date: February 19, 2018 at 2:07:45 PM MST

To: "CityCouncil@LouisvilleCo.gov" < CityCouncil@LouisvilleCo.gov>

Subject: Continued support for HOA trash collection services management

Dear City Council Members, the Mayor, and Ward 3 representative:

It is our family's sincerest request that we will be able to continue the HOA trash collection services that are managed by the Coal Creek Ranch HOA.

We have lived in Louisville for over 35 years, in our current HOA-managed location for 23 years.

The recent survey certainly supports the fact that 91.2% of folks living in our HOA-managed areas are in favor of continuing our current waste collection services, and our family is asking that you honor the results of the survey and keep our current trash collection contract in place.

Respectfully, Beverly Johnson 826 Spyglass Circle

Sent from my iPad

From: Bonnie Farb <bonnie4321@yahoo.com>
Sent: Tuesday, February 13, 2018 7:27 PM

To: City Council Subject: Garbage

I live at the springs in Louisville and am against the city requiring HOA's to contract with the city for garbage removal. Competition is a good thing. Bonnie Farb 300 Diamond Circle.

Sent from my iPad

From:	Hilary Heath <hilaryheath@earthlink.net></hilaryheath@earthlink.net>
Sent:	Monday, February 19, 2018 6:46 AM
_	0" 0 "

To: City Council

**Subject:** NO on incorporating my trash collection into city

City Council,

I live at 631 St. Andrews Lane and am part of Coal Creek Ranch HOA.

I DO NOT want my HOA to be incorporated into the City's Waste Management Contract. I want my HOA to continue to manage my trash collection.

Thank you.

Hilary Heath

From: Sandy <sandystewart649@aol.com>
Sent: Wednesday, February 7, 2018 8:27 AM

To: City Council

**Subject:** Proposal to make HOAs join City Waste Collection Contract

#### Dear Council,

I understand that there is consideration being given to make Louisville HOAs leave their current negotiated contract for waste collection and be forced into the City contract. In Coal Creek Ranch we have excellent service from Western at a very fair cost. If we were forced into the City contract, my monthly cost would increase by over 75% with no conceivable benefit since my composting is minimal and I would not use the service if provided.

Please allow Louisville citizens to make such collective decisions democratically in areas like which are not detrimental to taxpayers in other parts of the City.

Respectfully

Alexander (Sandy) Stewart Ward 3 649 Augusta Drive Louisville

Sent from my iPad

From: Ashley Stolzmann

Sent: Monday, February 19, 2018 2:29 PM
To: Beverly Johnson; City Council

Subject: Re: Continued support for HOA trash collection services management. Question regarding

rates

Hello Ms Johnson,

You asked for more information on the City waste costs & pricing so here is my attempt: When comparing rates between the HOA and the City, it is important to understand the fee structures are apples and oranges and you have to look at them on average to compare the rates. My understanding of the HOA structure is that the same rate is charged to everyone, regardless of bin size (flat rate). The City has a pay as you throw system that is designed to reward people who have smaller trash bins by giving them lower rates, and people with bigger bins therefore pay more (people can have any size recycling bin at no additional charge). If you compare the average price of the city service to what I understand the bid for the HOA to get compost service (my attempt to make it an apples to apples comparison) the cost difference between the services is about \$3/month more with the city contract. The City did not choose the lowest bid last time we went to renew our contract because there was a huge amount of public support for the more expensive contract. I will be looking very closely at pricing this time, assuming that all the bidders meet the requirements of the city bid. This may have not come across clearly in a note, so please feel free to call me if you would like to discuss this further.

Best Wishes, Ashley Stolzmann Louisville City Councilmember 303-570-9614

From: Beverly Johnson

Sent: Monday, February 19, 2018 2:21 PM

To: City Council

**Subject:** Fwd: Continued support for HOA trash collection services management. Question regarding rates In addition to my forwarded email, I would like to understand how our HOA can contract a monthly rate of \$14.30 for two 96 gallon containers and a small composting container, while the City of Louisville is charging \$34.57 for the same service. I would appreciate you responding to this email request.

Sincerely, Bev Johnson

Sent from my iPad

Begin forwarded message:

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Date: February 19, 2018 at 2:07:45 PM MST

**To:** "CityCouncil@LouisvilleCo.gov" <CityCouncil@LouisvilleCo.gov>

Subject: Continued support for HOA trash collection services management

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We have lived in Louisville for over 35 years, in our current HOA-managed location for 23 years.

The recent survey certainly supports the fact that 91.2% of folks living in our HOA-managed areas are in favor of continuing our current waste collection services, and our family is asking that you honor the results of the survey and keep our current trash collection contract in place.

Respectfully, Beverly Johnson 826 Spyglass Circle

Sent from my iPad

From: Michael B. Menaker <michael@hostworks.net>

Sent: Tuesday, February 20, 2018 1:31 PM

To: City Council

Subject: Trash collection and HOAs

# Mayor and Council,

The rationale behind universal curbside single-stream recycling as an included service in the base rate and optional, but City-wide, composting was presented as being "for the greater good", not the lowest possible price for residents.

If that rationale still holds true, then all residents, including those in HOAs should be required to have trash/recycling/composting service levels as required in the City's contract. If the HOA and its vendor can match the services provided at the same or lower cost, then fine.

But, if the HOAs don't provide the same services with their trash collection, how can the City justify the cost burden on the rest of us? Hardly seems fair.

Coal Creek HOA has some of the highest home prices in the City. Due, in no small part to the City's investment in the Coal Creek Golf Course. The CC HOA members should be required to serve the "greater good" just like the rest of us.

#### PS:

Jay, if you'd forward this to the Sustainability Advisory Board, please. There's no direct link on the City's website.

Michael

--

Michael B. Menaker 1827 W. Choke Cherry Dr. Louisville, CO 80027 303.665.9811

cell: 303.588.8781

From: Sent: To: Subject:	Saturday, February 17, 2018 8:40 AM City Council Trash Collection
	ed by our Homeowners Association that the City of Louisville is contemplating ers to be part of a waste collection contract held by the City.
	extreme disapproval to the proposal that all residents of Louisville be required to tract for waste collection.
should not be forced to fees are significantly lo	rner's association, with a contract already in place with Waste Management, we participate in a contract the City negotiated and implemented. Our current ower than the contract negotiated by the City. It seems incredulous that the City is it possible that the City simply wants to line it's own pockets with the ged?
I strongly urge the defendence of the largest strongly urge th	eat of any resolution to require citizens to accept services we have not to.
Thank you.	
Colleen Weaverling	
231 Springs Drive	

From: Jefferies, Rick <rjefferies@cedpower.com>
Sent: Wednesday, February 14, 2018 9:18 AM

To: City Council; Robert Muckle; Ashley Stolzmann; Dennis Maloney

Subject: Waste Collection and HOA's

Dear Mayor and Council Members,

I recently became aware that council is considering a resolution making it mandatory for all HOA's within city boundaries to become part of the city trash pickup contract. I reside in Coal Creek Ranch and our HOA has managed collection services for several years and have done an excellent job controlling costs and overseeing our service provider.

Therefore, I strongly encourage my Ward representatives and mayor to **not pass** such as resolution with the end result being substantially higher cost and most likely inferior service. Our residents are perfectly capable of composting on their own without city government acting as Big Brother driving up costs for something we do not want. There are a number of retired neighbors in my area that I'm sure do not want the burden of adding higher fixed costs to their budgets.

Sincerely,

Rick Jefferies 913 St. Andrews Lane

From: Bruce Becker <br/>
Sent: Wednesday, February 14, 2018 7:18 PM

To: City Council Subject: Waste disposal

#### **Dear Council Members:**

Our HOA (Coal Creek Ranch) recently took a survey of Home owners to find that but 30.4 % were interested in the City assuming Trash Disposal responsibility for the Association to include Composting at a cost that exceeds the cost of our current rate for 96 gal container of \$14.30 for the same size container plus a 32 gal compost container for a cost of \$34.57 and increase of 141.7%---let me say that again, **141.7%** over our current rate!

The Association has done an excellent and efficient job of managing these matters for the residents of this community for 25 years and we want them to continue to do so. Further many members of this community have lived for the last 9-10 years in very low interest rate environment where savings have earned little to nothing w/o taking out-sized risks and have had same reflected in our Soc Security pension. The City terminated the senior real estate tax deduction as did the State but never reinstated same as the State did rather using it as the reason not to do so. Further the City has had every tax increase ever asked for granted and now intends to continue raising these taxes based on valuations which put nothing in our pockets! We are **Bolderizing** this community which many of us left to get away from. Please let our HOA working with the residents of this community, make decisions affecting our daily lives! Spend your time making the City the best small city to live in the USA as it once was.

Sincerely,

Bruce & Patricia Becker

From: Mark Dayan <marksdayan@gmail.com>
Sent: Wednesday, February 21, 2018 8:50 AM

To: City Council

**Subject:** HOA Waste Management incorporation into City Contract - Not Supported!

All,

We are a family of four living in the Coal Creek HOA on the south side of Dillon road.

We have lived here for ~14 years and are more than happy with our current waste management contract via the Coal Creek HOA.

We do not support this resolution for the following reasons:

- We have a large composter (that we purchased at a significant expense) inside our yard and privacy fence.
- This composter handles all of our composting needs and is used to fertilize our yard.
- It is significantly cheaper and easier than having the city transport and compost our waste
- We have a space limitation in our garage and it will be hard for us to accommodate more "waste" containers
- Our system works we would not like to see our charges increase from \$14.30 to \$34.57. That's \$243 per year!
- I'm not an advocate of larger government (even though this is a small example) involvement with things that are working well.
- Not sure what the motivation is for this but one possibility is to have the HOA's mandate composting bins for all their residents
- Also you might want the HOA's to poll their residents and see how many have their own composting bins.

Thanks, Mark



# CITY COUNCIL COMMUNICATION AGENDA ITEM 3

SUBJECT: DISCUSSION/DIRECTION – MARIJUANA REGULATIONS

DATE: FEBRUARY 27, 2017

PRESENTED BY: MEREDYTH MUTH, CITY CLERK

ROB ZUCCARO, DIRECTOR OF PLANNING & BUILDING SAFETY

#### **SUMMARY:**

As a part of the 2017 Work Plan, the City Council asked to evaluate if there is a need for changes or updates to the City's marijuana regulations.

# Current Regulations:

The City currently allows for four types of marijuana licenses; each requires City and State approval. Local licenses must be approved by the Local Licensing Authority.

- Retail Marijuana Store License
- Retail Marijuana Testing Facility License
- Medical Marijuana Center License
- Medical Marijuana-Infused Products Manufacturing License

# Other regulations include:

- A marijuana business may not be located within 1,320 feet of: a public or private preschool, elementary, middle, junior high, or high school; a public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential child care facility;
- May not be in residential, agriculture, office, mixed use, or commercialneighborhood zoned districts
- May not be in downtown
- A medical center limited to 1800 square feet
- A retail store limited to 2000 square feet
- A shared retail/medical store limited to 3800 square feet
- Hours of operation limited to 8 am 10 pm
- · Limitations on the language and design of signage
- No on-site consumption
- Limit of four retail stores allowed in the City

The City currently has two stores. One is a retail only store and one store is a combined retail and medical facility. From a City perspective, both have complied with all of the regulations. They follow the licensing rules, pay their sales tax, and the Police Department has not had problems with the stores or their clientele.

Privacy rules prohibit the City from reporting the amount of sales tax the stores generate.

SUBJECT: MARIJUANA REGULATIONS

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# Possible Changes:

The municipalities surrounding Louisville have a variety of different regulations. Superior and Broomfield do not allow marijuana at all while Lafayette, Boulder, and Boulder County allow all types of licenses including retail and medical sales, production, and cultivation. In addition to the City's current allowance for retail and medical scales, the City could consider allowing cultivation and production of marijuana in certain areas. The City's industrially zoned areas would be the most appropriate location to allow these uses. However, consideration of negative impacts such as odor, security and conflicts with other uses in and around the City's industrial areas should be considered. The City's current industrial areas are considered "light" industrial, and staff believes that such uses would be more appropriate in a "heavy" industrial area or more rural area further away from residential and recreational areas. Thus, staff recommends that the City maintain its current restriction on cultivation and production. However, if Council desires further consideration, staff could seek input from the Colorado Tech Center Owners Association and conduct further research on cultivation for future discussion.

Currently, the City has one combined medical/retail facility (Ajoya). It is limited to 3800 sf, combined between the retail and medical sales. The owners have sectioned off their store to meet the space requirement but have space they are leasing they are not allowed to use. They have asked the City to consider allowing them to expand so they can use the additional square footage they are paying to rent and to not limit the allowed area by retail and medical categories. As noted in the attached comparison table, Boulder limits dispensaries to 3,000 square feet, while Boulder County and Lafayette to not have size restrictions. Possible benefits of limiting the size of a retail operation could include limiting any possible negative impacts from the business, such as odor or security concerns. However, staff is not aware of any issues in Boulder County or Lafayette where there are currently no restrictions on the size of the business and recommends consideration of raising or eliminating the area restriction.

#### FISCAL IMPACT:

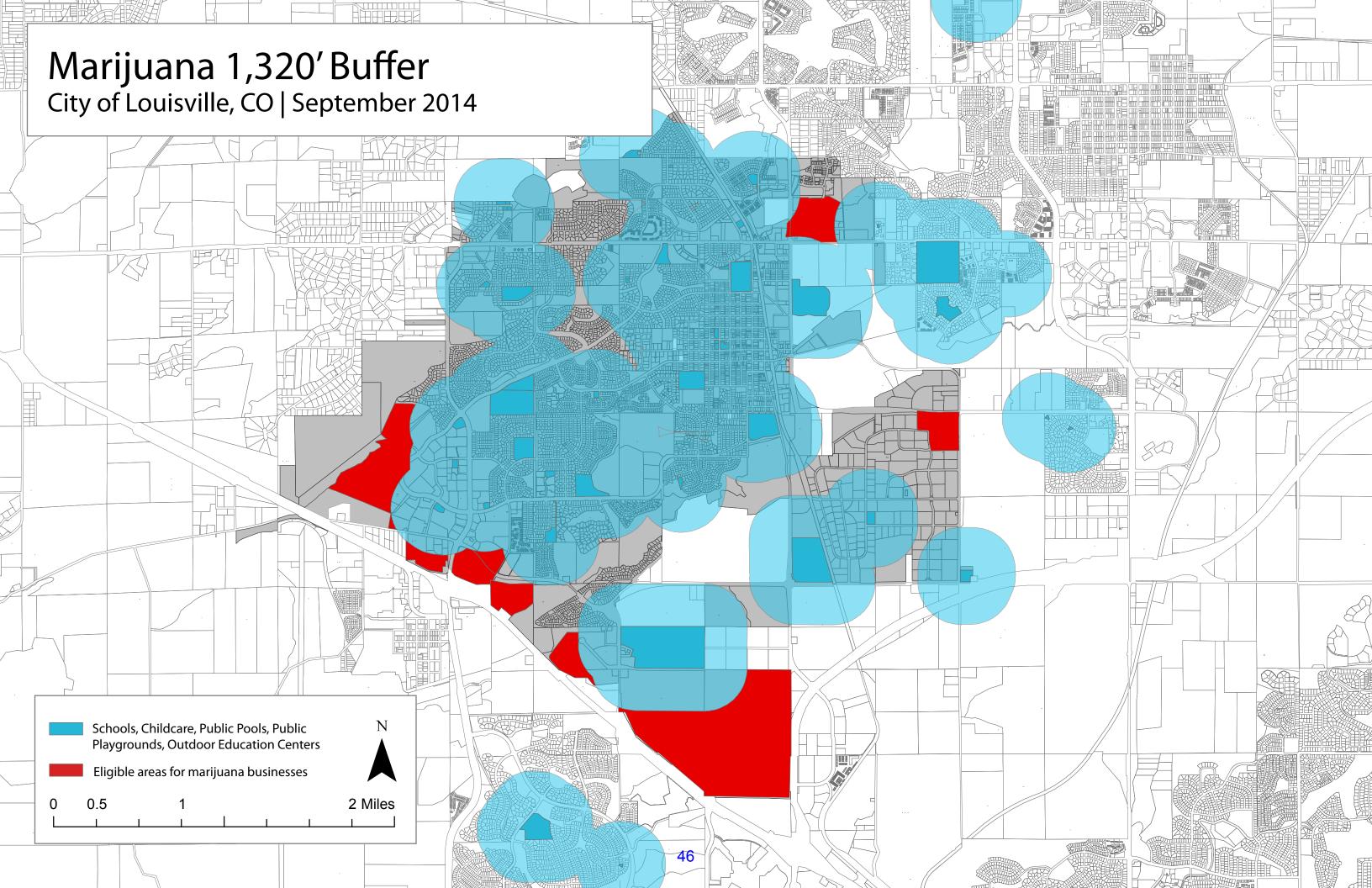
Dependent on direction.

#### **RECOMMENDATION:**

Discussion/Direction.

# ATTACHMENT(S):

- 1. 1320 foot buffer map
- 2. Current Medical Regulations
- 3. Current Retail Regulations
- 4. Comparison Chart of Marijuana Regulations with Other Jurisdictions
- 5. Comparison of liquor and marijuana regulations in the state
- 6. Link to recent Colorado Public Radio piece on marijuana cultivation energy use



#### Chapter 5.10 - MEDICAL MARIJUANA[1]

Sec. 5.10.010. - Purpose.

- A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 14 of the Colorado Constitution and protect the rights of patients and their primary caregivers while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:
  - 1. Requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana business might have on surrounding properties and persons;
  - 2. Regulating the conduct of persons owning, operating and using medical marijuana businesses in order to protect the public health, safety and welfare; and
  - 3. Regulating the location and operation of medical marijuana businesses.
- B. By adoption of this chapter, the city council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

*Amendment 20* means that certain voter initiated amendment to the Colorado Constitution adopted November 7, 2000, which added Section 14 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Cultivation means the process by which a person grows a marijuana plant.

*Dwelling unit* shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, a creditor interest, or a directorship or officership.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

- 1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;
- 2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or
- 3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located.

Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center or medical marijuana-infused products manufacturer, or an ongoing nuisance condition emanating from or caused by the medical marijuana center or medical marijuana-infused products manufacturer.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

*License* means a document issued by the city officially authorizing an applicant to operate a medical marijuana business pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

*Licensed premises* means that portion of a property, building, or other structure which is owned or in possession of the licensee and which is used for the purpose of storing, processing, displaying for sale, selling or otherwise distributing medical marijuana or other products by a licensee.

Local licensing authority means the City of Louisville local licensing authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

*Medical marijuana* means marijuana that is grown and sold pursuant to the provisions of this chapter and for a purpose authorized by <u>Section 14</u> of Article XVIII of the Colorado State Constitution.

*Medical marijuana business* shall mean any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.

*Medical marijuana center* means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-402 and this chapter that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.

*Medical marijuana delivery business* means a medical marijuana business that delivers medical marijuana to a patient or primary caregiver at a location other than a licensed premises.

*Medical marijuana-infused products manufacturer* means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-404 and this chapter.

*Medical marijuana paraphernalia* or *paraphernalia* means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

Minor patient means a patient less than 18 years of age.

Patient means a person who has a debilitating medical condition as defined in Amendment 20.

*Person* means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

*Premises* means the legal parcel of property upon which a medical marijuana center or medical marijuana-infused product manufacturer is located.

*Primary caregiver* means a natural person, other than the patient and the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Registry identification card means that document, issued by the state, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary caregiver, if any has been designated.

*State licensing authority* means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana in this state, pursuant to C.R.S. § 12-43.3-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 20, C.R.S. § 12-43.3-101 et seq., C.R.S. § 25-1.5-106, and the rules and regulations promulgated by the state licensing authority, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.030. - Classes of medical marijuana licenses.

- A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:
  - 1. *A medical marijuana center license*. A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-402 to registered patients or primary caregivers, but is not a primary caregiver.
  - 2. *A medical marijuana-infused products manufacturing license.* A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-404.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.040. - Authorization of the local licensing authority.

- A. The City of Louisville's existing local licensing authority, previously established pursuant to <u>Chapter 5.08</u> of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of medical marijuana businesses in the City of Louisville, including without limitation all such powers set forth in this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.
- B. The local licensing authority may, consistent with the Code and applicable provisions of state law, grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administrat licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in <u>section</u>! this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.050. - License requirements; exemptions.

- A. Except as provided in subsection B. of this section, it shall be unlawful for any person to establish or operate a medical marijuana business in the city without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.
- B. Primary caregivers who cultivate, possess or dispense medical marijuana to no more than five patients, and patients who cultivate or possess medical marijuana for their own medical use, are not considered medical marijuana businesses and are exempt from the licensing requirements of this chapter, but shall be subject to the following limitations:
  - 1. All such cultivation shall be conducted entirely within a building or other fully enclosed structure.
  - 2. Not more than 12 marijuana plants may be cultivated or kept at the same parcel of property, of which no more than six plants may be mature.
  - 3. In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution and other applicable state laws and regulations.

Notwithstanding the above, the five patient limit shall not apply to primary caregivers who have been authorized by the state health agency to serve additional patients in exceptional circumstances in accordance with C.R.S. § 25-1.5-106(8).

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.060. - Application and fee.

- A. A person seeking a license or renewal of a license issued pursuant to this chapter shall submit an application to the local licensing authority on forms provided by the city. At the time of application for a new license, the applicant shall pay a nonrefundable application fee in the amount as established by resolution of the city council to defray the costs incurred by the city for processing the application. A fee in the amount established by resolution of the city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, employees, and other persons required to be qualified pursuant to this chapter. In addition, the applicant shall provide one of the following forms of identification:
  - 1. An identification card issued in accordance with C.R.S. § 42-2-302;
  - 2. A valid state driver's license;
  - 3. A valid driver's license containing a picture issued by another state;
  - 4. A military identification card; or
  - 5. A valid passport.
- B. The applicant shall also provide the following information on a form approved by, or acceptable to, the

city, which information shall be required for the applicant, the proposed manager and employees of the medical marijuana business, and all persons having any financial interest in the medical marijuana business that is the subject of the application:

- 1. Name, address, date of birth;
- 2. A complete set of fingerprints;
- An acknowledgement and consent that the city will conduct a background investigation, including a
  criminal history check, and that the city will be entitled to full and complete disclosure of all financial
  records of the medical marijuana business, including records of or relating to deposits, withdrawals,
  balances and loans;
- 4. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
- 5. The name and complete address of the proposed medical marijuana business;
- 6. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or medical marijuana-infused products manufacturer;
- 7. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
- 8. Evidence of a valid sales tax license for the business;
- 9. If the medical marijuana center will be providing medical marijuana in edible form, evidence of any food establishment license or permit that may be required by the state;
- 10. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the medical marijuana business, loading zones and all areas in which medical marijuana will be stored, processed or dispensed;
- 11. A comprehensive business plan for the medical marijuana business which shall contain, without limitation, the following:
  - a. A security plan meeting the requirements of section 5.10.160 of this chapter;
  - b. A description of all products to be sold;
  - c. A signage plan that is in compliance with all applicable requirements of <u>section 5.10.150</u> of this chapter, this Code and the commercial development design standards and guidelines; and
  - d. A plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations; and
- 12. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.
- C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center or medical marijuana-infused products manufacturer operation, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

- D. Upon receipt of a completed application, the secretary of the local licensing authority shall circulate the app all affected service areas and departments of the city to determine whether the application is in full complia applicable laws, rules and regulations.
- E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.
- F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of C.R.S. §§ 12-43.3-302 and 12-43.3-303. The local licensing authority has the authority to deny a license for good cause.
- G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.
- H. After approval of an application, a local license shall not be issued until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by C.R.S. § 12-43.3-303(4).

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 6, 6-7-2011)

#### Sec. 5.10.070. - Location criteria.

- A. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located within 1,320 feet of another medical marijuana center or medical marijuana infused product manufacturer.
- B. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located:
  - Within 1,320 feet of: a public or private preschool, elementary, middle, junior high, or high school; a
    public playground or outdoor pool; an outdoor education facility serving children; an alcohol or
    drug treatment facility; the principal campus of a college, university, or seminary; or a residential
    child care facility;
  - 2. Upon any city property;
  - 3. In a dwelling unit or any residentially zoned districts; or
  - 4. Within the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts.
- C. No licensed premises for a medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 1,800 square feet of leasable floor space, nor shall such licensed premises ever exceed 1,800 square feet of leasable floor space.
- D. No medical marijuana center or medical marijuana-infused product manufacturer shall operate as an

- outdoor or transient retailer, vendor or peddler.
- E. The distances described in subsections A, B and C of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A, B and C of this section to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.080. - Persons prohibited as licensees.

- A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.3-307 and the rules and regulations promulgated by the State of Colorado.
- B. No license provided by this chapter shall be issued to, held by, or renewed by any of the following:
  - 1. A person until the annual fee therefor has been paid;
  - 2. A person whose criminal history indicates that he or she is not of good moral character;
  - 3. A corporation, if the criminal history of any of its officers, directors, or stockholders indicates that the officer, director, or stockholder is not of good moral character;
  - 4. A partnership, association, limited liability company, or other entity, if the criminal history of any of its managers or officers or person having any financial interest in such entity indicates he or she is not of good moral character;
  - 5. A licensed physician making patient recommendations;
  - 6. A person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character and reputation satisfactory to the respective licensing authority;
  - 7. A person under 21 years of age;
  - 8. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to:
    - a. Provide a surety bond or file any tax return with a taxing agency;
    - b. Pay any taxes, interest, or penalties due;
    - c. Pay any judgments due to a government agency;
    - d. Stay out of default on a government-issued student loan;
    - e. Pay child support; or
    - f. Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency, or an outstanding delinquency for child support.
  - 9. A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, or use of a controlled substance;
  - 10. A person who employs another person at a medical marijuana business who has not passed a criminal history record check;
  - 11. A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

- 12. A person whose authority to be a primary caregiver has been revoked by the state health agency;
- 13. A person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or
- 14. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that, for a person who submits an application for licensure pursuant to this chapter by May 1, 2011, this requirement shall not apply to that person if the person was a resident of the State of Colorado on December 15, 2009.
- C. In investigating the qualifications of an applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license.
- D. As used in subsection C of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.
- E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana center license or medical marijuana-infused product manufacturer license, the applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the local licensing authority. The local licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The local licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for local licensing purposes may request that the fingerprints on file be used. The local licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a local license pursuant to this chapter. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.090. - Duration of license; renewal.

- A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana center or medical marijuana-infused product manufacturer to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.
- B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and 54

may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. An application for the renewal of an existing license shall be made to the local licensing authority not more than 60 days and not less than 45 days prior to the date of expiration of the license. No application for renewal shall be accepted by the local licensing authority prior to or after such date except as provided is subsection C of this section. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee at the time the renewal application is submitted in the amount as established by resolution of the city council. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 7, 6-7-2011)

Sec. 5.10.100. - Annual license fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual license fee in an amount as established by resolution of the city council. The annual license fee may be refunded if the application is denied.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 8, 6-7-2011)

Sec. 5.10.110. - Use and display of license.

- A. A license shall not be transferable to another person except as provided in section 5.10.130.C.
- B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this <u>Chapter 5.10</u> (including, but not limited to, the location criteria set forth in <u>section 5.10.070</u>), C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended.
- C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana center or medical marijuana-infused product manufacturer.
- D. Any person delivering medical marijuana in the city on behalf of a medical marijuana business shall have in his or her possession a true and accurate copy of the license held by said business and shall, upon request by any police officer of the city or by any other duly authorized law enforcement officer, produce the same for inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1642-2013, § 1, 9-3-2013)

Sec. 5.10.120. - Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing

authority. All managers must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements described in <u>section 5.10.080</u> of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.130. - Change in manager, employee; change in financial interest; modification of premises.

- A. Each licensee shall report any change in managers or employees to the local licensing authority within 30 days after the change. Such report shall include all information required for managers and employees under section 5.10.060 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken to qualify new managers and employees may be charged.
- B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana business that is the subject of the license. Except as set forth in subsection C. of this section, such report must be filed with the local licensing authority within 30 days after any such transfer or change. A report shall be required for any transfer of the capital stock of any corporation regardless of size. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history contrary to the requirements described in <a href="section 5.10.080">section 5.10.080</a> of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken pursuant to this chapter may be charged.
- C. For a transfer of ownership, the license holder shall apply to the local licensing authority. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this <u>Chapter 5.10</u>, C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.3-309.
- D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the rules and regulations promulgated by the state licensing authority. Each application for modification of premises shall be accompanied by an application fee in the amount as established by resolution of the city council.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 9, 6-7-2011; Ord. No. 1642-2013, § 2, 9-3-2013)

Sec. 5.10.140. - Hours of operation.

Medical marijuana centers may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1718-2016, § 1, 5-3-2016)

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana center or medical marijuana-infused products manufacturer shall comply with all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.160. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all medical marijuana centers and medical marijuana-infused product manufacturers shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by C.R.S. § 12-43.3-101 et seq. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.170. - Required notices.

- A. There shall be posted in a conspicuous location in each medical marijuana center and medical marijuanainfused product manufacturer a legible sign containing warnings that:
  - 1. The possession, use or distribution of marijuana is a violation of federal law;
  - 2. The possession, use or distribution of marijuana for nonmedical purposes is a violation of state law;
  - 3. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
  - 4. No one under the age of 18 years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state registry card for such minor patient.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.180. - Cultivation and growing by licensees.

The cultivation and growing of marijuana plants is prohibited within the City of Louisville, except as permitted under subsection 5.10.050.B of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.190. - Sale of edible products.

- A. Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes.
- B. Any food products sold by a medical marijuana center shall either be inspected by an agency of the Colorado Department of Public Health and Environment or, if no such inspection has occurred, shall contain a label indicating the lack of any such inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.200. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that the marijuana is intended for use solely by the patient to whom it is sold and that any resale or redistribution of the marijuana to any person other than a patient or primary caregiver is a criminal violation.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana center or medical marijuana-infused product manufacturer is prohibited.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.220. - Prohibited acts.

- A. It shall be unlawful for any licensee to:
  - Employ any person to manage a medical marijuana center or medical marijuana infused-product manufacturer facility or to dispense medical marijuana who is not at least 21 years of age or who has a criminal history contrary to the requirements described in <u>section 5.10.080</u> of this chapter;
  - 2. Sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient or primary caregiver;
  - 3. Sell, give, dispense or otherwise distribute to any patient or primary caregiver more than two ounces of any usable form of medical marijuana within any seven-day period of time or in such other quantities allowed pursuant to Amendment 20;
  - 4. To maintain, sell, dispense or otherwise distribute mature medical marijuana plants at any medical marijuana center;
  - 5. Purchase or otherwise obtain from another licensed medical marijuana center in Colorado more medical marijuana than permitted by state law or regulation;
  - 6. Permit on the licensed premises any person other than:
    - a. The licensee, the licensee's manager, employees and financial interest holders;
    - b. A patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20;
    - c. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card;

- d. A primary caregiver in possession of his or her patient's registry identification card or its function Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the pat caregiver, as submitted to the Colorado Department of Public Health and Environment;
- e. A person whose physical presence and assistance are necessary to assist a patient;
- f. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business;
- g. Law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;
- 7. Permit the sale or consumption of alcohol beverages on the licensed premises; or
- 8. Cultivate or permit the cultivation of medical marijuana on the licensed premises.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.230. - Visibility of activities; control of emissions.

- A. All activities of medical marijuana centers and medical marijuana infused product manufacturers, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.
- B. No medical marijuana or paraphernalia shall be displayed or kept in a center or infused product manufacturer so as to be visible from outside the licensed premises.
- C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana center or infused product manufacturer, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.240. - Disposal of marijuana byproducts.

The disposal of medical marijuana, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.250. - Deliveries of medical marijuana.

Deliveries of medical marijuana and paraphernalia by licensees operating a medical marijuana delivery business, whether or not such business is conducted in conjunction with a city-licensed medical marijuana center or medical marijuana-infused product manufacturer, shall be made only to patients and primary caregivers and only in the amounts specified in subsection 5.10.220.A.3 of this chapter. All such deliveries shall be subject to the record keeping requirements contained in section 5.10.270 of this chapter.

Sec. 5.10.260. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all medical marijuana, paraphernalia and other tangible personal property sold, dispensed, or purchased at the medical marijuana center, in accordance with the requirements of <u>Chapter 3.20</u> of this Code.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.270. - Required books and records.

- A. Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana business in any usable form. Such record shall include the following:
  - 1. The identity of the seller and purchaser involved in each transaction;
  - 2. The total quantity of, and amount paid for, the medical marijuana; and
  - 3. The date, time and location of each transaction.
- B. Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:
  - 1. The patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;
  - 2. The form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:
    - a. An identification card issued in accordance with C.R.S. § 42-2-302,
    - b. A valid state driver's license;
    - c. A valid driver's license containing a picture issued by another state;
    - d. A military identification card;
    - e. A valid passport; or
    - f. An alien registration card.
  - 3. A registry identification card or its functional equivalent under <u>Section 14(3)(d)</u> of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.
- C. Information provided to the licensee by a patient or primary caregiver under the provisions of this section need not include any information regarding the patient's physician or medical condition.
- D. All transactions shall be kept in a numerical register in the order in which they occur.
- E. All records required to be kept under this chapter must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three years after the date of the transaction. Information inspected by the city police department or other city departments pursuant to this chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

- A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.
- B. The licensed premises, including any places of storage where medical marijuana is stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.
- C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.
- D. Nothing in this section or section 5.10.070 of this chapter shall require the disclosure of information contrary to the provisions of federal or state law or Amendment 20 which are intended to protect the privacy of patients.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.290. - Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.300. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in <u>section 1.28.010</u> of this Code.

- A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the medical marijuana business for a violation of state or federal laws, rules or regulations.
- B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana business that is the subject of the license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.320. - Other laws remain applicable.

- A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional or stricter regulation shall control the establishment or operation of any medical marijuana business in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.
- B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
- C. If the state or federal government prohibits the sale or other distribution of marijuana through medical marijuana centers or medical marijuana-infused products manufacturers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.330. - Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

#### Chapter 5.11 - RETAIL MARIJUANA

Sec. 5.11.010. - Purpose; relationship with the Colorado retail marijuana code.

- A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 16 of the Colorado Constitution while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:
  - Requiring that retail marijuana establishments be operated in a manner that minimizes
    potential health and safety risks and mitigates the negative impacts that a retail
    marijuana establishment might have on surrounding properties and persons;
  - 2. Regulating the conduct of persons owning, operating and using retail marijuana establishments in order to protect the public health, safety and welfare; and
  - 3. Regulating the location and operation of retail marijuana establishments.
- B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.
- C. Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, ordinance, rule or regulation, the more restrictive provision shall control.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 64 means that certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added Section 16 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license, license renewal, or other licensing action pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

*Colorado Retail Marijuana Code* means Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.

*Cultivation* means the process by which a person grows a marijuana plant.

Division means the Marijuana Enforcement Division.

Dwelling unit shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, or a directorship or officership.

Good cause, for purposes of denying, refusing to renew, suspending or revoking a license, means:

- The licensee or applicant has violated, does not meet, or has failed to comply with any
  of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant
  to this chapter, or any applicable state or local law, rules, or regulations;
- 2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
- 3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment; or
- 4. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

*License* means a document issued by the city officially authorizing an applicant to operate a retail marijuana establishment pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to manufacture, distribute, sell, or test retail marijuana and retail marijuana products in accordance with this chapter and all applicable laws, rules and regulations.

Local licensing authority means the City of Louisville Local Licensing Authority.

*Location* means a particular parcel of land that may be identified by an address or other descriptive means.

*Marijuana* means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

*Marijuana accessories* mean any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Marijuana club* shall mean a place not used for residential purposes where individuals gather to consume, grow, distribute or otherwise use marijuana or marijuana products for medical or personal use, regardless of whether such place calls itself private or public or charges an admission, membership or similar fee. A medical marijuana business or retail marijuana establishment with valid state and local licenses shall not constitute a marijuana club.

*Person* means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that person does not include any governmental organization.

*Premises* means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

Public or private elementary, middle, junior high, or high school means existing public or private elementary, middle, junior high, or high schools and public or private elementary, middle, junior high, or high school sites designated as a use permitted by right on a planned community general development plan that has been granted approval by the city council on or before the date an application for a retail marijuana establishment license is received by the city.

*Public playground* means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.

*Retail marijuana* means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

*Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

Secretary means the secretary of the local licensing authority or such person's designee.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this state, pursuant to C.R.S. § 12-43.4-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 64, the Colorado Retail Marijuana Code, and the rules and regulations promulgated thereunder, as in effect from time to time, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1677-2014, § 1, 11-18-2014)

Sec. 5.11.030. - Classes and number of retail marijuana licenses authorized.

- A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:
  - 1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-402 and any related rules and regulations.

- 2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-405 and any related rules and regulations.
- B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.040. - Authorization of the local licensing authority.

- A. The City of Louisville's existing local licensing authority, previously established pursuant to <a href="https://chapter.5.08">chapter 5.08</a> of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of retail marijuana establishments in the City of Louisville, including without limitation all such powers set forth in this Code, the Colorado Retail Marijuana Code, and all related rules and regulations, as from time to time amended.
- B. The local licensing authority may grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.
- C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in <u>section 5.08.130</u> of this Code, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.050. - License requirements.

It shall be unlawful for any person to establish or operate a retail marijuana establishment in the city without first having obtained a license for such business from the state and local licensing authorities. Such licenses shall be kept current at all times, and the failure to maintain current licenses shall constitute a violation of this section.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.060. - Screening and response to state license applications.

- A. Upon receipt of an application from the state licensing authority for a retail marijuana license, the secretary of the local licensing authority shall:
  - 1. Initially determine, in consultation with the planning and building safety department,

whether or not the proposed location complies with any and all zoning and land use laws of the city and any and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this chapter. If the secretary makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this Code, the secretary shall notify the state licensing authority in writing that the application is disapproved by the city. The failure of the secretary to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority or the secretary from determining that the proposed license is in violation of any zoning law or other restriction set forth in this Code, and disapprove the issuance of a local license on this basis.

2. For any application that is not disapproved as provided in subsection 1, the secretary shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this chapter, after which the secretary will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.070. - Local license procedure.

- A. Applications for local licenses shall be made on forms provided by the division and shall include all materials required by the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder.
- B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:
  - 1. Name, address, date of birth;
  - 2. A complete set of fingerprints;
  - 3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;

- 4. The name and complete address of the proposed retail marijuana establishment;
- 5. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
- 6. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
- 7. Evidence of a valid sales tax license for the business;
- 8. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entryways and exits to the retail marijuana establishment, loading zones and all areas in which retail marijuana or retail marijuana products will be stored, processed or dispensed;
- 9. A comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:
  - a. A security plan meeting the requirements of section 5.11.170;
  - b. A description of all products to be sold;
  - c. A signage plan that is in compliance with all applicable requirements of <u>section</u> 5.11.160, this Code and the applicable design standards and guidelines; and
- 10. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.
- C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.
- D. Upon receipt of a completed application, the secretary of the local licensing authority or his or her designee shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.
- E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.
- F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder. The local licensing authority has the authority to deny a license for good cause.
- G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter, the Retail Marijuana Code, and any applicable state or

- local rule or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.
- H. After approval of an application, a local license shall not be issued until a state license has been issued and the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by this chapter.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.080. - Location criteria; co-location.

A. No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 1,320 feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground, all as defined in <a href="section 5.11.020">section 5.11.020</a> of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

- 1. Upon any city property; or
- 2. In a dwelling unit or any residentially zoned districts; or
- 3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or
- 4. Within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.
- B. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 2,000 square feet of leasable floor space, nor shall such licensed premises ever exceed 2,000 square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 3,800 square feet of leasable floor space.
- C. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.
- D. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in

- subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment is located.
- E. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:
  - 1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
  - 2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
  - 3. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.090. - Persons prohibited as licensees; background checks.

- A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.4-306 and the rules and regulations promulgated by the State of Colorado.
- B. In investigating the qualifications of an applicant, licensee, owner, or manager of a retail marijuana establishment, the local licensing authority shall make a finding and determination as to the good moral character and criminal history of such persons in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. In so doing, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the state licensing authority or may, in its sole discretion, make its own findings.
- C. The city shall not be required to perform a criminal background check if the state licensing

authority has already performed a criminal background check or may, in its sole discretion, perform its own background check. In such case, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license. If the city performs the criminal background check, a fee in the amount established by resolution of city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, and any other persons required to be qualified pursuant to the Colorado Retail Marijuana Code, this chapter, and any related rules and regulations. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.100. - Duration of license; renewal.

- A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each retail marijuana establishment to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.
- B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.
- C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee in the amount established by city council by resolution to the local licensing authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.
- D. The local licensing authority may deny a renewal application for good cause pursuant to section 5.11.260.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.110. - Annual operating fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of the city council. The annual operating fee may be refunded if the application is denied.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.120. - Use and display of license.

- A. A license shall not be transferable to another person except as provided in section 5.11.140.C.
- B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this chapter 5.11 (including, but not limited to, the location criteria set forth in section 5.11.080), the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.
- C. Each license shall be continuously posted in a conspicuous location at the licensed premises of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.130. - Management of licensed premises; employees.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers and employees must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements of the Colorado Retail Marijuana Code or any rules or regulations promulgated thereunder.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.140. - Change in manager; change in financial interest; modification of premises.

- A. Each licensee shall report any change in managers to the local licensing authority within seven days after the change.
- B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the

- subject of the license and receive approval prior to any transfer or change pursuant to subsection C. of this section. A report is required for transfers of capital stock of any corporation regardless of size.
- C. For a transfer of ownership, the license holder shall apply to the state and local licensing authorities. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this chapter 5.11, the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.4-308.
- D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the state and local licensing authorities. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. Each application for modification of premises shall be accompanied by an application fee in amount established by resolution of the city council.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.150. - Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1718-2016, § 2, 5-3-2016)

Sec. 5.11.160. - Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of <u>title 17</u> of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder. In addition, all signage of the retail marijuana establishment, including but not limited to temporary signage, shall contain only the business name and trademark of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.170. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all retail marijuana establishments shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Retail Marijuana Code. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.180. - Cultivation, growing, and manufacturing.

The cultivation and growing of marijuana plants and the manufacturing of retail marijuana products is prohibited within the City of Louisville, except as permitted for nonretail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the city a marijuana cultivation facility or a retail marijuana products manufacturing facility.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.190. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.200. - Onsite consumption of retail marijuana.

The consumption of marijuana or marijuana products on or within the licensed premises of a retail marijuana establishment is prohibited.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.210. - Prohibited acts.

- A. It shall be unlawful for any licensee to:
  - 1. Violate or fail to comply with any provision of Amendment 64, the Colorado Retail

- Marijuana Code, any rules and regulations adopted thereunder, or any applicable state or local law, ordinance, rule or regulation.
- 2. To allow marijuana or marijuana products to be consumed upon its licensed premises.
- 3. To use advertising material that is misleading, deceptive, or false or that is designed to appeal to minors.
- 4. To sell retail marijuana or retail marijuana products to a person under 21 years of age or to a person who does not present a government issued identification at the time of purchase.
- 5. To sell more than a quarter of an ounce of retail marijuana or more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of the State of Colorado.
- 6. To have on the licensed premises any retail marijuana, retail marijuana products, or marijuana paraphernalia that shows evidence of the marijuana or marijuana product having been consumed or partially consumed.
- 7. Distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution center.
- Distribute or allow the distribution of any marijuana or marijuana product without charge within a retail marijuana establishment or any place open to the public for purpose of promotion or advertising.
- 9. Distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana or marijuana product either free or at a discount.
- B. It shall be unlawful for a retail marijuana store:
  - 1. To sell or give away any consumable product, including but not limited to, cigarettes, alcohol, or edible products that do not contain marijuana (e.g., soda, candy, and baked goods).
  - To sell retail marijuana or retail marijuana products over the internet or to deliver marijuana or marijuana products to a person not physically present in the licensed premises.
- C. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the Colorado Retail Marijuana Code, and this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

- Sec. 5.11.220. Visibility of activities; control of emissions.
  - A. All activities of retail marijuana establishments, including, without limitation, processing,

displaying, selling and storage, shall be conducted indoors.

B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.230. - Disposal of marijuana byproducts.

The disposal of retail marijuana, byproducts and marijuana accessories shall be done in accordance with the Colorado Retail Marijuana Code and any other applicable state and local laws, ordinances and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.240. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all retail marijuana, retail marijuana products, marijuana accessories and other tangible personal property sold, dispensed, used or purchased at the retail marijuana establishment, in accordance with the requirements of <u>chapter 3.20</u> of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.250. - Inspection of books and records and licensed premises.

- A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.
- B. The licensed premises, including any places of storage where retail marijuana or retail

marijuana products are stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.260. - Nonrenewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.265. - Marijuana clubs prohibited.

The establishment or operation of a marijuana club is prohibited in all zoning districts in the City.

(Ord. No. 1677-2014, § 2, 11-18-2014)

Sec. 5.11.270. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, owner, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in <u>section 1.28.010</u> of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.280. - No city liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the

- city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the retail marijuana establishment for a violation of state or federal laws, rules or regulations.
- B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.290. - Other laws remain applicable.

- A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for nonrenewal, revocation or suspension of any license issued hereunder.
- B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
- C. If the state or federal government prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.300. - Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

(Ord. No. 1649-2013, § 1, 12-17-2013)

# COMPARISON OF MARIJUANA REGULATIONS IN AREA JURISDICTIONS

	Louisville	Boulder	Boulder County	Lafayette	Broomfield	Superior
Retail Sales	Allow	Allow	Allow	Allow		
Medical Sales	Allow	Allow	Allow	Allow		
Retail Product Manufacturing		Allow	Allow	Allow		
Medical Product Manufacturing	Allow	Allow	Allow	Allow		
Retail Marijuana Testing Facility	Allow	Allow	Allow	Allow		
Medical Marijuana Testing Facility		Allow	Allow	Allow		
Retail Cultivation		Allow	Allow	Allow		
Medical Cultivation		Allow	Allow	Allow		
Marijuana Research & Development		Allow	Allow	Allow	С	С
Distance Requirement	1320 Feet	1000 Feet	1000 feet	500 - 1000 feet	O M P L E T E B A N	O M P L E T E B A N
Limit on # of Retail Stores	4	None	None	3		
Geographic area limitations	Not allowed downtown	Not allowed in mixed use buildings where there is a residence in the building, or on the ground floor of the Downtown BID district. Don't allow more than 3 MJ businesses within 500 feet of each other.	None	500 - 800 ft setbacks from certain streets		
Square Footage Restrictions	Medical center is limited to 1800 sf; retail store is limited to 2000 sf; shared retail/ medical is limited to 3800 sf.	Dispensaries must be in personal services zones and may not be larger than 3,000 square feet. Grows must be in light industrial zones and may not be larger than 15,000 sq feet. MIPs must be in manufacturing or light industrial and may not be larger than 15,000 sq feet.	None	None		

# **COMPARISON OF MARIJUANA TO LIQUOR REGULATIONS**

	Marijuana Regs	Liquor Regs			
Land Use	Must be 1320 feet from any daycare or school. This is set by municipality.	Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.			
	New stores may not be within 1320 feet of another store. This is set by municipality.	New retail stores may not be within 1500 feet of another retail store. State law.			
		May deny a license for "undue concentration." (LLA denied a license once for this reason and was overruled by the State.)			
and Other	Municipality may ban this use in certain	Statute doesn't allow municipality to ban			
Regulations	areas, i.e. downtown.	liquor as a use in an area.			
	Municipality may set hours of operation.	Hours of operation set by state law.			
	Municipality may do a complete ban	Municipality may do a complete ban			
	Landlord may choose to not rent to a				
	marijuana use. Collect local sales tax.	Collect local sales tax.			
	May impose additional excise tax. Requires	Collect local sales tax.			
	TABOR election.				
	An owner's association is allowed to bar marijuana businesses in its district.				
Licensing	All license types set by state law.	All license types set by state law.			
	Must have a signed lease to apply for a license.	Must have a signed lease to apply for a license.			
	Apply first to the state. State then sends license application to the municipality.	Apply first to the municipality. Municipality then sends license application to the state.			
	State fees and local fees. Local fees set at the discretion of the municipality.	State fees and local fees. Local fees are limited by the state. (Louisville fees are much lower than the established limit.)			
	All employees required to have state issued "red card." Includes state mandated training for support personnel.	_			
	Background checks required of all employees (part of "red card" application).	Background checks required of all owners of more than 10% and managers.			
	Requires LLA Public Hearing	Requires LLA Public Hearing			
LLA = Local	Many of the marijuana regulations are based on the language from Amendment 64 and				
Licensing	were designed to give municipalities more control over how they handle marijuana. While				
Authority	both are considered matters of state-wide concern, municipalities have much greater				
	control over local marijuana regulations.				



# CITY COUNCIL COMMUNICATION AGENDA ITEM 4

SUBJECT: DISCUSSION/DIRECTION – CITY COUNCIL USE OF STUDY

SESSIONS VERSUS REGULAR OR SPECIAL MEETINGS

DATE: FEBRUARY 27, 2018

PRESENTED BY: MEREDYTH MUTH, CITY CLERK

#### SUMMARY:

The City Council asked staff to schedule a time to discuss the effectiveness of study sessions versus regular or special meetings. As Council cannot give direction to staff in a study session some have asked if they are worthwhile. The Charter allows the Council to have three types of meetings: Regular Meetings, Special Meetings, and Study Sessions. The Charter states "the Council shall meet regularly as least twice per month" but does not limit the Council to two regular meetings per month. Council could decide to change some or all of the study sessions to regular or special meetings. Here are some considerations in doing that.

# Pros of Study Sessions

- Allows for a more informal conversation
- Staff can bring items in the early stages to Council for feedback

# Cons of Study Sessions

- Cannot give direction to staff
- Staff has to interpret feedback
- Can stray into direction territory easily

#### Pros of Changing Study Sessions to Regular Meetings

- Council would have a standard Tuesday regular meeting
- Easier for the public to know when meetings are scheduled
- Council can give direction to staff at every meeting
- Official public comments can be taken at every meeting

# Cons of Changing Study Sessions to Regular Meetings

- Council's absences are judged against regular meetings. A
   Councilmember may only miss six meetings in a twelve month period.
- Does not allow Council an informal discussion without public input

Pros of Changing Study Sessions to Special Meetings Only as Needed (current system)

- Allows flexibility
- Allows Council to give staff direction if it is needed

Cons of Changing Study Sessions to Special Meetings

 May imply to the public the discussion topic is special, out of the ordinary, or an emergency SUBJECT: EFFECTIVENESS OF STUDY SESSIONS

DATE: FEBRUARY 27, 2018 PAGE 2 OF 2

Depending on Council's wishes, staff can update the schedule for the remainder of the year and present it to Council for final approval at a later meeting.

# **FISCAL IMPACT:**

None.

# **RECOMMENDATION:**

Discussion/Direction

# ATTACHMENT(S):

None